

**REMARKS/ARGUMENTS**

The Office Action mailed January 25, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Claims 1, 16, 37, 41, 43 and 46 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. The text of claims 2-4, 6-8, 10-15, 17, 39, 40, 42, 44, 45, 47 and 48 is unchanged, but their meaning is changed because they depend from amended claims.

Claims 5, 9, 18-36 and 38 have been canceled, without prejudice or disclaimer of the subject matter contained therein.

In view of the Examiner's earlier restriction requirement, Applicant retains the right to present claims 18-36 in a divisional Application.

**Interview Request**

This response is being filed with a Request for Continued Examination (RCE), which is the second RCE filed in this case. Applicant hereby requests a telephonic interview with the examiner to discuss this response in order to facilitate a speedy resolution to this case. As such, Applicant respectfully requests that the Examiner telephone Marc S. Hanish, Reg. No. 42,626 at (408) 282-1804 to set up an interview prior to any action on the merits.

The 35 U.S.C. § 112, First Paragraph Rejection

Claims 1-8, 10-17, 37 and 39-48 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was allegedly not described in the specification in such a way as to enable one of ordinary skill in the art to practice the invention. This objection is respectfully traversed.

The Office Action alleges that the recitation "the request packet not identifying the router card" in claims 1, 16, 37, 41, 43, and 46 contradicts page 10, lines 1-6 of the specification, which states that the request packet includes the port address of the router card. Applicant respectfully submits that including a port address of a router card in a request is not the same as identifying the router card in the request. First of all, the present invention does not need to identify the router card. The present invention is merely attempting to identify an appropriate configuration file for the router card. In order to perform this, it does not need to know the identification of the precise router card. Second of all, even if the present invention chooses to identify the precise router card, it does so without being told of the identity in the request. Merely because the present invention may be able to deduce the identity of the router card from information in the request (such as the port address of the router card), does not equate with the request itself identifying the router card.

Nevertheless, claims 1, 16, 37, 41, 43, and 46 have been amended to make this language more clear. Specifically, it makes clear that the request does not contain a unique identifier for the router card. Applicant believes that support for this amendment may be found inherently in the specification, as if the request did contain a unique identifier for the router card, then it

clearly would not need to use the file type and the port address to try and deduce the file to send - it could simply send the file corresponding to the unique identifier.

### The 35 U.S.C. § 103 Rejection

Claims 1-4, 6-8, 10-17, 37 and 39-48 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hansen<sup>1</sup> in view of RFC 783<sup>2</sup> and Bailey et al.<sup>3</sup>, among which claims 1, 16, 17, 37, 41, 43 and 46 are independent claims. This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>4</sup>

Specifically, the Final Office Action contends that the elements of the presently claimed invention are disclosed in Hansen except that Hansen does not teach file size, the ack, duplicating ack, opcode, block number, checksum of packet, active and inactive router.<sup>5</sup> The Final Office Action further contends that RFC 783 teaches a format for TFTP packets that demonstrates a TFTP request packet containing a source port address and destination address in the request packet and ack packet and transmitting or retransmitting the packets contains the requested file between the devices. The Final Office Action further alleges that Bailey teaches

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<sup>1</sup> U.S. Patent 6,772,204

<sup>2</sup> Sollings, K.R., "TFTP Protocol", Revision 2

<sup>3</sup> U.S. Patent 6,185,623

<sup>4</sup> M.P.E.P. § 2143.

<sup>5</sup> Office Action ¶ 5.

the remaining elements and that it would be obvious to one having ordinary skill in the art at the time of the invention to incorporate RFC and Bailey into Hansen in order to accomplish the same goals as the present invention. The Applicants respectfully disagree for the reasons set forth below.

Contrary to what is stated in the Final Office Action, Hansen does not teach or suggest "said request packet not containing a unique identifier for the router card". As stated in col. 16, lines 18-20 of Hansen, "the unconfigured network device 26 will periodically issue a bootp packet which contains a medium access code (or "MAC") address for the device". This clearly would uniquely identify the device. Furthermore page 17, lines 16-18 of Hansen states "if the device requesting configuration has a matching bootptab file, i.e., the bootptab file has a bootpid which matches the serial number of a device". If such a test is being performed, than the system must necessarily have been given the serial number of the device in the bootp request. This also would uniquely identify the device.

As to dependent claims 2-4, 6-8, 10-15, 17, 39, 40, 42, 44, 45, 47 and 48, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Request for Entry of Amendment

Entry of this Amendment will place the Application in better condition for allowance, or at the least, narrow any issues for an appeal. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

Conclusion

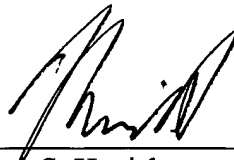
It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP



Marc S. Hanish  
Reg. No. 42,626

Dated: \_\_\_\_\_

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Thelen Reid & Priest LLP  
P.O. Box 640640  
San Jose, CA 95164-0640  
Tel. (408) 292-5800  
Fax. (408) 287-8040